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9 U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust, its assignees and/or
10 successors, by and through its servicing agent Caliber Home Loans, Inc.
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12
13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 In re) Case No. 16-30152 HLB
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19)
20 Robert O'Brien,) Chapter 13
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22 Debtor.)
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30 **OBJECTION TO CONFIRMATION**
31 **OF CHAPTER 13 PLAN**
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101 Judge: Hannah L. Blumenstiel
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1 U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust, its assignees
2 and/or successors, by and through its servicing agent Caliber Home Loans, Inc., ("Secured
3 Creditor") in the above-entitled Bankruptcy proceeding, hereby submits the following Objections
4 to Confirmation of the Chapter 13 Plan proposed by ("Debtor") Robert O'Brien.

5 1. Secured Creditor is entitled to receive payments pursuant to a Promissory Note
6 which matures on 10/1/2035 and is secured by a Deed of Trust on the subject property
7 commonly known as 10 Wiltshire Avenue, Larkspur, CA 94939. As of 2/9/2016, the amount in
8 default was approximately \$189,245.89. A Proof of Claim detailing the arrearages is
9 forthcoming and will be filed on or before the claims bar date; however, Secured Creditor
10 submits the following objections to timely preserve its rights and treatment under the proposed
11 Plan.

12 2. The proposed Plan understates the arrearages owed to Secured Creditor. Pursuant
13 to 11 U.S.C. §1322(b)(2), b(5) and 1325 (a)(5)(B), the proposed plan must provide for full
14 payment of the arrearages as well as ongoing monthly payments pursuant to the Note and Deed
15 of Trust. Debtor alleges in the Plan that the arrears owed to Secured Creditor are in the amount
16 of \$150,000.00, while in fact the actual arrears owed are in the amount of approximately
17 \$189,245.89. To cure the pre-petition arrearages of approximately \$189,245.89 within 60
18 months, Secured Creditor must receive a minimum payment of \$3,154.09 per month from the
19 Debtor through the Plan. Debtor's Plan provides for payments to the Trustee in the amount of
20 \$5,000.00 per month for 60 months. Pursuant to Schedules I and J, Debtors do not have
21 sufficient net income to increase the payment to cure the arrears owed to Secured Creditor. As
22 such, the plan is not feasible. A true and correct copy of Debtor's Schedules I and J are attached
23 hereto as **Exhibit "1"**.

24 3. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtor shall
25 commence making the payments proposed by the Plan within 30 days after the Petition is filed.
26 The Plan must comply with all applicable provisions of 11 U.S.C. § 1325 to be confirmed. As
27 such, the Plan cannot be confirmed.
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1 CONCLUSION

2 Any Chapter 13 Plan proposed by the Debtor must provide for and eliminate the
3 Objections specified above in order to be reasonable and to comply with applicable provisions of
4 the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Chapter 13
5 Plan as proposed by the Debtor be denied, or in the alternative, be amended to provide for full
6 payoff of the arrearages owed to Secured Creditor.

7 The Debtor is ineligible for a Chapter 13 bankruptcy proceeding as the total amount of
8 secured debt exceeds \$1,149,525.00. 11 See U.S.C. section 109(e). Accordingly, Secured
9 Creditor additionally requests that the instant case be dismissed or converted to a qualifying
10 chapter.

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12 WHEREFORE, Secured Creditor prays as follows:

- 13 1. That confirmation of the Proposed Chapter 13 Plan be denied, dismissed or
14 converted to a qualifying chapter;
15 2. For attorneys' fees and costs herein,
16 3. For such other relief as this Court deems proper.

17
18 Respectfully submitted,

19 **McCarthy & Holthus, LLP**

20 3/17/2016

21 By: /s/ Jennifer C. Wong
22 Jennifer C. Wong, Esq.
23 Attorney for U.S. Bank Trust, N.A., as Trustee
24 for LSF9 Master Participation Trust, its
25 assignees and/or successors, by and through its
26 servicing agent Caliber Home Loans, Inc.
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